

NAIR et al

Appl. No. 09/171,916

September 7, 2004

**REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested.

Claim 41 stands provisionally rejected as representing obviousness-type double patenting over claims 19 and 39 of Application No. 09/875,264. Given the provisional nature of the rejection, the Examiner is requested to hold the rejection in abeyance until this case is otherwise in condition for allowance.

Claims 1, 2, 6, 7, 9, 13-18, 27, 28, 30, 48, 49 and 53-58 stand rejected under 35 USC 102(e) as allegedly being anticipated by Cezayirli et al. The rejection is traversed.

At the outset, it is noted that the Examiner indicates that the effective date of the citation is February 14, 1997 (see page 5 of the Action, line 9). The Examiner's attention is directed to the fact that the present application claims priority from Appln. No. 08/640,444 filed April 30, 1996. The comments that follow make it clear where in the priority filing support for the indicated rejected claims can be found:

Claim 1: page 2, lines 2-27; page 3, lines 8-11; paragraph bridging pages 4 and 5; paragraph bridging pages 26 and 27; and elsewhere in the specification, including in the Examples beginning on page 13 (as evidence of the support for instant claim 1 found in the priority filing, the Examiner's attention is directed to claim 1 of USP 5,853,719 which issued from Appln. No. 08/640,444);

Claim 2: page 2, lines 28 and 29;

Claim 6: page 3, lines 4 and 5;

Claim 7: page 3, line 7;

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Claim 9: page 3, lines 2-4;

Claim 13: see portions noted above in connection with claim 1;

Claim 14: page 4, lines 15-22;

Claim 15: page 4, lines 20 and 21;

Claim 17: page 4, lines 22-25;

Claim 18: paragraph bridging pages 4 and 5;

Claim 27: page 4, lines 3-10;

Claim 28: this claim was previously cancelled;

Claim 30: page 3, line 7;

Claim 54: page 5, lines 5-9;

Claim 55: page 5, lines 17-21;

Claim 56: page 5, lines 17-21;

Claim 57: page 5, lines 17-21; and

Claim 58: page 5, lines 17-21.

As regards claims 16 and 53, no teaching of "fixed tissue" is found in the citation.

As regards claims 48 and 49, no basis is found in the Examiner's comments for the apparent assertion that the subject matter of these claims necessarily flows from the teaching of the citation.

In view of the above, it will be clear that the rejection is not well founded and reconsideration is requested.

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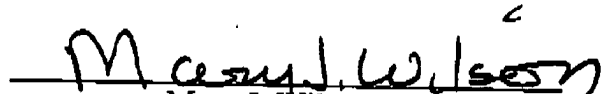
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This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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